

REMARKS

This amendment is submitted in compliance to the Final Office Action dated June 14, 2007. This amendment is submitted in lieu of an Appeal Brief, and Applicant notes within the time limits to file the Appeal Brief based upon the Notice of Panel Decision from Pre-Appeal Brief Review issued on May 12, 2009. Applicant thanks the Examiner for the Telephone Interview on June 8, 2009, and notes that this amendment is submitted as discussed. With this amendment, Applicant has put the application in condition for allowance in accordance with the Final Office Action. Claim 13 was allowed, and claims 10-12 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form as has been done in the above amendment. Furthermore, the Examiner acknowledged that the prior art failed to teach or suggest the quenching step as claimed by the Applicant. All other claims 1-9 and 14-18 have been canceled.

Applicant notes that this amendment to cancel claims and comply with the requirement of form expressly set forth in the Final Office regarding claims 10 to 12 is permitted under MPEP § 1206 and 37 CFR § 41.33.

Applicant withdraws the Appeal to the canceled claims and notes that Appeal is moot for claims 10-12, which have been placed in compliance with the requirement of form expressly set forth in the Final Office that the Examiner maintained was allowable, and to claim 13, which was allowed.

Applicant has made an earnest attempt to respond completely to the Office Action of June 14, 2007, and Applicant believes that all remaining claims 10-13 are in condition for allowance. Accordingly, Applicant requests allowance of the remaining claims. Applicant has amended and canceled certain claims solely to advance prosecution of this application and to

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obtain allowance on the agreed upon allowable claims at the earliest possible date. Therefore, no admission may be inferred by the cancellation or amendments to the claims herein.

If additional time is required, please consider this a petition therefore and charge any shortages in fees, or apply any overpayment credits, to Baker & Daniels LLP's Deposit Account No. 02-0387 (26041.500571). However, please do not include the payment of issue fees.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

June 12, 2009

Date

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